

Matter of: Kollsman Inc.  
File: B-406990; B-406990.2  
Date: October 15, 2012

Buyer loses because...

## DIGEST

Protest challenging the evaluation of the awardee's past performance as providing "substantial confidence" is sustained where the record does not support the reasonableness of this rating.

offerors who provided acceptable product samples were then evaluated considering the following factors: technical, past performance and price, with technical being significantly more important than past performance. Each offeror's past performance was evaluated to determine the relevancy of its referenced prior contracts, and was assessed as "relevant" or "not relevant." The agency then determined how well the contractor performed on each contract and assigned a past performance confidence rating.<sup>2</sup> Although price was not a weighted evaluation factor, the RFP stated that price would become increasingly important with "the degree of equality of the proposals in relation to the other factors on which selection [was] to be based, or when the price [was] so significantly high as to diminish the value of the technical superiority to the Government." RFP at 79.

Interesting trade off. Past performance Rating and price...

<sup>2</sup> The possible past performance confidence ratings were substantial confidence, satisfactory confidence, limited confidence, no confidence and unknown confidence.

Kollsman also contends that the agency's evaluation of L-3's past performance was unreasonable and undocumented. Specifically, Kollsman contends that L-3's past performance rating of "substantial confidence" was not warranted given L-3's documented negative past performance on the predecessor HLM I contract.

If we consider past performance, then we have to be consistent...

The source selection decision did not discuss the past performance evaluation except to report the substantial confidence ratings and report that both proposals received the same adjectival rating. AR, Tab 4, Source Selection Decision, at 3.

We note that the agency and intervenor argue that the contract specialist's undocumented analysis of L-3's past performance by the contract specialist was reviewed by the contracting officer and the source selection official, who acquiesced in his analysis in making the source selection decision. However, the agency can produce no documentary evidence of the review by the contracting officer and the source selection official, except the source selection decision document prepared by the source selection decision, which states that "[t]he remaining subfactors of the technical factor and past performance all received the same adjectival rating." Tr. at 42. Given the lack of documentation and support for the substantial confidence rating, we find no basis to conclude that the agency reasonably evaluated L-3's past performance.<sup>13</sup>

... lack of supporting documentation